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ORIGINAL

(4)  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RANDY YORDY,  
Plaintiff

v.

SCOTT BROWN, PAUL EVANKO,  
BERON F. STEAGER, AND BARRY L.  
BRINSER, et al.,  
Defendants

:  
:  
: No. 1:01-CV-0206  
:  
: (Judge Kane)

FILED  
HARRISBURG, PA

NOV 27 2002

EXHIBITS IN SUPPORT OF  
DEFENDANT EVANKO'S MOTION  
FOR SUMMARY JUDGMENT

MARY E. D'ANDREA  
Per [Signature] Deputy Clerk

D. MICHAEL FISHER  
Attorney General

GREGORY R. NEUHAUSER  
Senior Deputy Attorney General

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Date: November 27, 2002

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COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS  
: OF  
: DAUPHIN COUNTY, PENNSYLVANIA  
: VS. : Agg. Asslt; DUI; Recklessly  
: Endangering; Resisting  
: Arrest  
: RANDY ADAM YORDY : NO. 685 C.D. 1999

TRANSCRIPT OF PROCEEDINGS

GUILTY PLEA

BEFORE: THE HONORABLE JOSEPH H. KLEINFELTER, P.J.  
DATE: TUESDAY, FEBRUARY 15, 2000  
2:11 O'CLOCK P.M.  
PLACE: COURTROOM NO. 1  
DAUPHIN COUNTY COURTHOUSE  
HARRISBURG, PENNSYLVANIA

A P P E A R A N C E S:

MICHAEL L. ROZMAN, ESQUIRE  
Chief Deputy District Attorney  
For - Commonwealth

JOSHUA D. LOCK, ESQUIRE  
For - Defendant



**COPY**

1 TUESDAY, FEBRUARY 15, 2000

2  
3 (The following proceedings occur at 2:11 p.m.):

4  
5 MR. ROZMAN: Good afternoon, Your Honor.

6 THE COURT: Good afternoon.

7 MR. ROZMAN: Commonwealth calls the case docketed to  
8 685 C.D. 1999, the Commonwealth v. Randy Adam Yordy.

9 The Defendant is present in the courtroom, along  
10 with his counsel, Mr. Lock.

11 Defendant is presently charged with criminal attempt  
12 homicide, aggravated assault, driving under the influence,  
13 recklessly endangering another person, and two counts of  
14 resisting arrest.

15 There is a proposed plea agreement in this case,  
16 Your Honor. The plea agreement is as follows: The  
17 Commonwealth would ask the Court to dismiss the criminal  
18 attempt homicide. The aggravated assault which is presently  
19 graded as a Felony II and is at Section 2702(a)(2) will be  
20 amended to a Felony II aggravated assault, 2702(a)(3). He  
21 will plead guilty to the 2702(a)(3) aggravated assault and the  
22 rest of the charges, the driving under the influence,  
23 recklessly endangering and resisting arrest.

24 The record should reflect that the trooper that was  
25 involved in this is present in the courtroom, Trooper Scott

1 Brown, and I would ask Trooper Brown to rise.

2 Trooper, you heard me outline the plea agreement to  
3 the Judge.

4 Do you agree with the plea agreement?

5 TROOPER BROWN: Yes, sir.

6 MR. ROZMAN: Does the Court have any questions of  
7 the trooper?

8 THE COURT: No.

9 MR. ROZMAN: Again, Mr. Yordy, I am going to go  
10 through some of your rights with you.

11 You must answer my questions loudly enough so that  
12 the court reporter can hear you and record your answers.

13 How old are you?

14 THE DEFENDANT: I'm 42.

15 MR. ROZMAN: How far did you go in school?

16 THE DEFENDANT: I'm a graduate.

17 MR. ROZMAN: So you read, write, and understand the  
18 English language?

19 THE DEFENDANT: Yes, I do.

20 MR. ROZMAN: Are you presently under the influence  
21 of any alcohol or drugs or anything that would prevent you  
22 from understanding what's going on here today?

23 THE DEFENDANT: No.

24 MR. ROZMAN: If at any point you don't understand  
25 something I say, please stop me, and I will try and explain it

1 and maybe Mr. Lock will also try and explain it.

2 Okay?

3

4 (The Defendant nods head up and down.)

5

6 MR. ROZMAN: I want you to understand that any time  
7 you're charged with a crime in Pennsylvania, you have a right  
8 to a trial by jury.

9 In a trial by jury, 12 people from Dauphin County  
10 sit and listen to all the evidence in the case. They would  
11 decide the case based on that evidence. Their verdict would  
12 have to be unanimous. All 12 of them would have to say that  
13 you're guilty for you to be found guilty, or all 12 of them  
14 have to say you're not guilty for you have to be found not  
15 guilty.

16 You, along with your attorney and the  
17 district attorney assigned to the case, would pick these 12  
18 people.

19 Do you understand your right to a trial by jury?

20 THE DEFENDANT: Yes.

21 MR. ROZMAN: Do you understand that once you plead  
22 guilty, you give up your right to a trial by jury?

23 THE DEFENDANT: Yes.

24 MR. ROZMAN: You also have a right to a nonjury or  
25 bench trial. A bench trial is the same as a trial by jury

A-11

1 except a judge would take the place of a jury and listen to  
2 all the evidence and decide whether you are guilty or not  
3 guilty based on that.

4 Do you understand your right to have a nonjury or  
5 bench trial?

6 THE DEFENDANT: Yes, I do.

7 MR. ROZMAN: Do you understand, again, that you are  
8 giving up your right to a nonjury or bench trial?

9 THE DEFENDANT: Yes.

10 MR. ROZMAN: In either a jury or nonjury trial, you  
11 have certain rights.

12 First of all, you are presumed innocent. The  
13 Commonwealth must prove you guilty of each charge beyond a  
14 reasonable doubt.

15 You have a right to cross-examine all the  
16 Commonwealth witnesses through your attorney. You have the  
17 right to present your own witnesses. You have the right to  
18 take the stand and testify in your own behalf, but if you  
19 choose to not take the stand, you cannot be forced to take the  
20 stand and testify and that cannot be held against you.

21 Do you understand all those things?

22 THE DEFENDANT: I understand, yes.

23 MR. ROZMAN: You understand when you plead guilty,  
24 you limit your appeal rights to specific areas. First, the  
25 voluntariness of your plea; whether you're doing this of your

1 own free will.

2 Second is the jurisdiction of this Court in  
3 accepting the plea, and so long as the crime occurred in  
4 Dauphin County, this Court has jurisdiction.

5 And the third would be the legality of the sentence  
6 that the Judge would impose. If he were to give you an  
7 illegal sentence, you could challenge that. If the sentence  
8 he gave you was legal, you couldn't challenge that.

9 Do you understand all those things?

10 THE DEFENDANT: I understand.

11 MR. ROZMAN: Now, sir, you understand that  
12 aggravated assault, 2702(a)(3), which is what you're pleading  
13 guilty to is a felony of the second degree?

14

15 (The Defendant nods head up and down.)

16

17 MR. ROZMAN: The maximum you could receive -- I'm  
18 not saying this is what you're going to get -- but the maximum  
19 you could receive is up to 20 years in prison.

20 Do you understand that?

21 THE DEFENDANT: Yes.

22 MR. ROZMAN: Driving under the influence is a  
23 misdemeanor of the second degree as is recklessly endangering  
24 another person as is resisting arrest.

25 The maximum you could receive for each one of those



1 charges is up to 2 years in prison.

2 Do you understand that?

3 THE DEFENDANT: Yes.

4 MR. ROZMAN: Now, sir, the first count is the  
5 attempted homicide, and we're asking that the Court dismiss  
6 that.

7 The second count is aggravated assault. And the  
8 aggravated assault, it's charged that on or about February 4,  
9 1999, that you did cause or attempt to cause bodily injury to  
10 a police officer, which is Trooper Scott Brown of the  
11 Pennsylvania State Police, and what you did is you got into a  
12 fight with Trooper Brown about the time of the arrest. And at  
13 some point right before the two of you parted company, he was  
14 dragged by you in your car for some number of feet.

15 Do you understand that?

16 THE DEFENDANT: Yes.

17 MR. ROZMAN: How do you plead? Guilty or not  
18 guilty?

19 THE DEFENDANT: You're asking me for attempted  
20 homicide?

21 MR. ROZMAN: No, aggravated assault.

22 THE DEFENDANT: Aggravated assault, guilty.

23 MR. ROZMAN: The third count is driving under the  
24 influence.

25 It's charged that you did drive, operate, or were in

1 actual physical control of the movement of a motor vehicle  
2 while you were under the influence of alcohol to such a degree  
3 that you were rendered incapable of safe driving.

4 Do you understand that charge, sir?

5 THE DEFENDANT: Yes.

6 MR. ROZMAN: How do you plead? Guilty or not  
7 guilty?

8 THE DEFENDANT: Guilty.

9 MR. ROZMAN: The fourth count is recklessly  
10 endangering another person.

11 You are charged with recklessly engaging in conduct  
12 which placed or may have placed another person in danger of  
13 death or serious bodily injury.

14 Again, that's Trooper Brown, and it all has to do  
15 with the fight and dragging him with the pickup truck.

16 Do you understand that charge, sir?

17 THE DEFENDANT: Yes.

18 MR. ROZMAN: How do you plead? Guilty or not  
19 guilty?

20 THE DEFENDANT: Guilty.

21 MR. ROZMAN: The fifth count is resisting arrest.

22 It's charged that you were being arrested for  
23 driving under the influence and you ended up fighting with  
24 Trooper Brown.

25 Do you understand that charge?

1 A Yes.

2 Q How do you plead? Guilty or not guilty?

3 THE DEFENDANT: Guilty.

4 MR. ROZMAN: The sixth count is resisting arrest.

5 At the time Troopers Barry Brinser and Beron Steager of the  
6 Pennsylvania State Police were arresting you for the incident  
7 involving Trooper Brown, and you had a fight with them too.

8 Do you understand that?

9 THE DEFENDANT: Yes.

10 MR. ROZMAN: How do you plead? Guilty or not  
11 guilty?

12 THE DEFENDANT: Guilty.

13 MR. ROZMAN: Will the Court accept the plea?

14 THE COURT: Yes.

15 Mr. Lock, I understand from our prior conversation  
16 that you wish a pre-sentence investigation in this case?

17 MR. LOCK: Yes, sir.

18 THE COURT: All right.

19 Well, we will accept the plea agreement and we  
20 accept the guilty plea .

21 I guess I should ask you, Mr. Lock, are you  
22 satisfied that your client is entering a voluntary,  
23 intelligent, and knowing plea of guilty?

24 MR. LOCK: Yes, he is.

25 It's reluctant, but it's both knowing, voluntary,

1 and intelligent. It is all of those things, yes.

2 THE COURT: And, Mr. Yordy, are you satisfied with  
3 the representation you've received from Mr. Lock?

4 THE DEFENDANT: Yes, very much so.

5 THE COURT: Do you have any questions at all about  
6 what you're doing here today and the consequences that may  
7 flow from your pleas of guilty?

8 THE DEFENDANT: No. My attorney was good. He  
9 advised me.

10 THE COURT: Well, then we will defer sentencing  
11 pending the receipt of a county pre-sentence investigation to  
12 Thursday, March 23, 2000, at 11:30 in the morning.

13 Now, sir, do you have a driver's license right now?

14 THE DEFENDANT: Yes, I do. I don't have it with me.  
15 Actually, I left my wallet in the car.

16 THE COURT: I see. Well, I was going to direct that  
17 as a condition of continuing bail that you not drive since, as  
18 you know, your license will be suspended.

19 MR. LOCK: If Your Honor wishes, I can make  
20 arrangements to have that surrendered to the Clerk perhaps  
21 tomorrow -- not perhaps.

22 If it is acceptable to the Court, tomorrow.

23 THE COURT: We'll ask you to do that, please, and is  
24 there anything further we have to do today then?

25 MR. ROZMAN: Nothing on behalf of the Commonwealth,

1 Your Honor.

2 MR. LOCK: No. Thank you, very much.

3 THE COURT: All right.

4 Mr. Yordy, where do you live?

5 THE DEFENDANT: In Grantville.

6 THE COURT: Do you own a home there?

7 THE DEFENDANT: Yeah. We own a whole apartment  
8 building, yeah.

9 THE COURT: Should you move between today and  
10 March 23rd for any reason, you'd be obligated to notify both  
11 the District Attorney and the Clerk of Courts of any change of  
12 address.

13 All right?

14 THE DEFENDANT: Yes.

15 MR. LOCK: Thank you, Your Honor.

16 THE COURT: See you back here on the 23rd.

17

18 (The proceedings are concluded at 2:31 p.m.)

19

20 --o0o--

21

22


23

24

25

C E R T I F I C A T I O N

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the guilty plea of the above cause, and that this is a correct transcript of the same.

  
Bart VanSomerén, RPR-CP  
Official Court Reporter

**COPY**

The foregoing record of the proceedings upon the guilty plea of the above cause is hereby approved and directed to be filed.

\_\_\_\_\_  
Joseph H. Kleinfelter, P.J.

\_\_\_\_\_  
Date

The Law Offices of SPERO T. LAPPAS  
205 State Street  
Post Office Box 808  
Harrisburg, Pennsylvania 17108-0808  
(717) 238-4286

By: SPERO T. LAPPAS, Esquire  
Pa. Supreme Court identification no. 25745  
ATTORNEY FOR PLAINTIFF

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RANDY YORDY,  
PLAINTIFF  
v.

SCOTT BROWN,  
individually  
and in his official capacity  
as an employee and agent of  
the PENNSYLVANIA STATE POLICE  
Defendant

PAUL EVANKO,  
individually  
and in his official capacity  
as an employee and agent of  
the PENNSYLVANIA STATE POLICE  
Defendant

BERON F. STEAGER,  
individually  
and in his official capacity  
as an employee and agent of  
the PENNSYLVANIA STATE POLICE  
Defendant

BARRY L. BRINSER,  
individually  
and in his official capacity  
as an employee and agent of  
the PENNSYLVANIA STATE POLICE  
Defendant

JOHN DOE 1,  
individually  
and in his official capacity  
as an employee and agent of  
the PENNSYLVANIA STATE POLICE  
Defendant

JOHN DOE 2,  
individually  
and in his official capacity  
as an employee and agent of

1: CV 01-0201  
CIVIL ACTION

JURY TRIAL DEMANDED

JUDGE

FILED  
HARRISBURG

FEB 1 2001

MARY E. D'ANDREA, CLERK  
Per. MS  
DEPUTY CLERK



the PENNSYLVANIA STATE POLICE  
Defendant

JOHN DOE 3,  
individually  
and in his official capacity  
as an employee and agent of  
the PENNSYLVANIA STATE POLICE  
Defendant

JOHN DOE 4,  
individually  
and in his official capacity  
as an employee and agent of  
the PENNSYLVANIA STATE POLICE  
Defendant

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COMPLAINT

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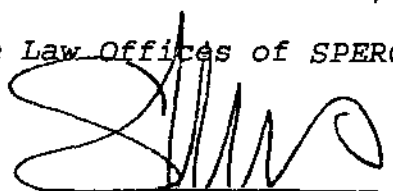
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AND NOW comes the PLAINTIFF by and through The Law Offices of SPERO T. LAPPAS, and makes this COMPLAINT against the above named Defendants.

RESPECTFULLY SUBMITTED,

The Law Offices of SPERO T. LAPPAS

By:

  
SPERO T. LAPPAS, Esquire  
ATTORNEYS FOR THE PLAINTIFF



---

---

COMPLAINT

---

---

AND NOW comes the PLAINTIFF by and through The Law Offices of SPERO T. LAPPAS, and makes this AMENDED COMPLAINT against the above named Defendants, respectfully representing as follows:

PRELIMINARY AVERMENTS

1. PLAINTIFF RANDY YORDY is an adult individual residing within the Middle District of Pennsylvania.

2. DEFENDANT SCOTT BROWN is an adult individual who was at all times material to this cause of action an employee, agent, servant and officer of the PENNSYLVANIA STATE POLICE.

3. DEFENDANT BERON STEAGER is an adult individual who was at all times material to this cause of action an employee, agent, servant and officer of the PENNSYLVANIA STATE POLICE.

4. DEFENDANT BARRY BRINSER is an adult individual who was at all times material to this cause of action an employee, agent, servant and officer of the PENNSYLVANIA STATE POLICE.

5. DEFENDANT PAUL EVANKO is an adult individual who was at all times material to this cause of action an employee, agent, servant and officer of the PENNSYLVANIA STATE POLICE. At such relevant times, he was the commissioner of the pennsylvania state police. In that office he had authority and control of all facets of the operation of the PSP including personnel and disciplinary matters.

6. All actions described in this Complaint as being taken by the individual defendants were taken in the course and scope of their employment as members of the PENNSYLVANIA STATE POLICE.

7. All of the Defendant's actions described within this Complaint either infra or supra, were intentional, malicious and taken in bad faith; in the alternative, those actions were reckless; in the alternative, those actions were negligent. None of those actions were privileged, or in the alternative, any privilege which would have otherwise attached was lost through abuse of a conditionally privileged occasion.

8. All of the Defendant's actions described within this Complaint either infra or supra, were taken under color of state law.

9. All harms, damages, and injuries suffered by the PLAINTIFF were the direct, legal and proximate results of the wrongful acts of the DEFENDANTS as described in this Complaint.

10. The causes of action brought in this Complaint are brought pursuant to inter alia Title 42, United States Code, sections 1983, 1985 and 1988, and the Fourth and Fourteenth Amendments to the United States Constitution, and the Civil Rights laws of the United States.

11. Jurisdiction is founded upon 28 USC § 1331 and 1341 and the aforementioned statutory and constitutional provisions.

12. Plaintiff further invokes the pendent jurisdiction of this Court to hear and decide claims arising under State Law.

13. This court has jurisdiction over this case.

**FACTS**

14. On February 4, 1999 the Plaintiff was driving his motor vehicle in the County of Dauphin, Middle District of Pennsylvania.

15. At that date, time, and place, DEFENDANT BROWN, who was then and there employed as a police officer with the PSP, stopped the vehicle for the purported reason of investigating a possible driving under the influence offense.

16. During the course of that stop, DEFENDANT BROWN became violent, and assaulted the PLAINTIFF.

17. DEFENDANT BROWN's assault upon the PLAINTIFF caused the PLAINTIFF to suffer the following injuries, and losses, inter alia:

- a. he suffered the loss of income;
- b. He was deprived of his liberty;
- c. He suffered great humiliation, embarrassment, mortification, and distress;
- d. He was subjected to unlawful, illegal and unreasonable and unconstitutional use of force;
- e. He was subjected to unlawful, illegal and unreasonable and unconstitutional arrest, detention, confinement, and inconvenience;
- f. He was deprived of his liberty in violation of the Constitutions of the United States of Pennsylvania and further in violation of state and federal law;
- g. He was put in fear of his well-being;

- h. He suffered the loss of valuable federally protected rights.
- i. The Plaintiff sustained physical injuries, damages, and losses, including physical and mental pain and suffering;
- j. The Plaintiff incurred medical expenses and other expenses related to the incident;
- k. The Plaintiff has lost earnings and/or earning capacity;
- l. The Plaintiff was required to undergo medical care;
- m. The Plaintiff was required to incur costs and/or to expend money on medical care, health care, and incidental expenses;
- n. The Plaintiff was for a time partially disabled;
- o. The Plaintiff has suffered grave and severe physical injuries;
- p. The Plaintiff has suffered great and severe physical and emotional pain, suffering and upset;
- q. The Plaintiff has been prevented from taking part in and performing the activities of employment, home life, personal life and social and recreational activities;
- r. The Plaintiff has been forced to undergo great and substantial inconvenience, aggravation, and loss of life's pleasures.

18. The PLAINTIFF narrowly escaped the aforementioned assault with his life, and in fact, DEFENDANT BROWN unlawfully and

unconstitutionally discharged his firearm at the PLAINTIFF and PLAINTIFF'S vehicle as the PLAINTIFF was fleeing.

19. PLAINTIFF then returned to his home whereupon several other PSP officers, some of whom are known to PLAINTIFF as DEFENDANTS STEAGER and BRINSER, and others of whom are unknown and are denominated JOHN DOE defendants in this action pending their identification through discovery and investigations, came to PLAINTIFF's home and assaulted him viciously, perhaps in unlawful retaliation for PLAINTIFF's supposed prior confrontation with DEFENDANT BROWN.

20. This assault upon PLAINTIFF at PLAINTIFF'S home aggravated the PLAINTIFF'S previous injuries and furthermore caused the following injuries, and losses, inter alia:

- a. he suffered the loss of income;
- b. He was deprived of his liberty;
- c. He suffered great humiliation, embarrassment, mortification, and distress;
- d. He was subjected to unlawful, illegal and unreasonable and unconstitutional use of force;
- e. He was subjected to unlawful, illegal and unreasonable and unconstitutional arrest, detention, confinement, and inconvenience;
- f. He was deprived of his liberty in violation of the Constitutions of the United States of Pennsylvania and further in violation of state and federal law;

- g. He was put in fear of his well-being;
  - h. He suffered the loss of valuable federally protected rights.
  - i. The Plaintiff sustained physical injuries, damages, and losses, including physical and mental pain and suffering;
  - j. The Plaintiff incurred medical expenses and other expenses related to the incident;
  - k. The Plaintiff has lost earnings and/or earning capacity;
  - l. The Plaintiff was required to undergo medical care;
  - m. The Plaintiff was required to incur costs and/or to expend money on medical care, health care, and incidental expenses;
  - n. The Plaintiff was for a time partially disabled;
  - o. The Plaintiff has suffered grave and severe physical injuries;
  - p. The Plaintiff has suffered great and severe physical and emotional pain, suffering and upset;
  - q. The Plaintiff has been prevented from taking part in and performing the activities of employment, home life, personal life and social and recreational activities;
  - r. The Plaintiff has been forced to undergo great and substantial inconvenience, aggravation, and loss of life's pleasures.
21. At all relevant times, DEFENDANT BROWN's personality,

character, proclivities and record with the PSP was such as to disqualify him from continued employment as a police officer. His personality, character, proclivities and record, and/or his record of prior citizen assaults, disciplinary charges, and official misconducts identified him as one who was illsuited to continued employment, and revealed him as a hazard to the citizens of this Commonwealth.

22. DEFENDANT BROWN's record would have revealed that disciplinary action, removal from duty, or reassignment was appropriate and that he should not be allowed to continue in police employment, or at least that he not be allowed to interact with members of the public in such a fashion as to allow his dangerous proclivities to present a menace to the public.

23. In spite of these facts, DEFENDANT EVANKO:

- a. failed and refused to exercise proper disciplinary control and supervision over DEFENDANT BROWN;
- b. failed to remove DEFENDANT BROWN from patrol duties;
- c. failed to take adequate and sufficient steps to protect the public in general and this PLAINTIFF in particular from DEFENDANT BROWN's dangerous proclivities.
- d. failed to institute such procedures within PSP practices as would lead to BROWN's removal, reassignment, effective discipline or dismissal.

24. DEFENDANT EVANKO'S failures and actions as described in this complaint are the proximate cause, or one proximate cause, of the PLAINTIFF'S injuries, losses and harms.

COUNT 1  
PLAINTIFF V. BROWN  
VIOLATION OF FEDERAL CIVIL RIGHTS

25. All other paragraphs of this Complaint are incorporated into this count by reference thereto.

26. WHEREFORE, the PLAINTIFF demands judgment against this Defendant for compensatory and punitive damages plus costs of litigation and attorneys' fees.

COUNT 2  
PLAINTIFF V. EVANKO  
VIOLATION OF FEDERAL CIVIL RIGHTS

27. All other paragraphs of this Complaint are incorporated into this count by reference thereto.

28. WHEREFORE, the PLAINTIFF demands judgment against this Defendant for compensatory and punitive damages plus costs of litigation and attorneys' fees.

COUNT 3  
PLAINTIFF V. BERON F. STEAGER  
VIOLATION OF FEDERAL CIVIL RIGHTS

29. All other paragraphs of this Complaint are incorporated into this count by reference thereto.

30. WHEREFORE, the PLAINTIFF demands judgment against this Defendant for compensatory and punitive damages plus costs of litigation and attorneys' fees.



COUNT 4  
PLAINTIFF V. BARRY L. BRINSER  
VIOLATION OF FEDERAL CIVIL RIGHTS

31. All other paragraphs of this Complaint are incorporated into this count by reference thereto.

32. WHEREFORE, the PLAINTIFF demands judgment against this Defendant for compensatory and punitive damages plus costs of litigation and attorneys' fees.

COUNT 5  
PLAINTIFF V. JOHN DOE 1  
VIOLATION OF FEDERAL CIVIL RIGHTS

33. All other paragraphs of this Complaint are incorporated into this count by reference thereto.

34. WHEREFORE, the PLAINTIFF demands judgment against this Defendant for compensatory and punitive damages plus costs of litigation and attorneys' fees.

COUNT 6  
PLAINTIFF V. JOHN DOE 2  
VIOLATION OF FEDERAL CIVIL RIGHTS

35. All other paragraphs of this Complaint are incorporated into this count by reference thereto.

36. WHEREFORE, the PLAINTIFF demands judgment against this Defendant for compensatory and punitive damages plus costs of litigation and attorneys' fees.

COUNT 7  
PLAINTIFF V. JOHN DOE 3  
VIOLATION OF FEDERAL CIVIL RIGHTS

37. All other paragraphs of this Complaint are incorporated into this count by reference thereto.

38. WHEREFORE, the PLAINTIFF demands judgment against this Defendant for compensatory and punitive damages plus costs of litigation and attorneys' fees.

COUNT 8  
PLAINTIFF V. JOHN DOE 4  
VIOLATION OF FEDERAL CIVIL RIGHTS

39. All other paragraphs of this Complaint are incorporated into this count by reference thereto.

40. WHEREFORE, the PLAINTIFF demands judgment against this Defendant for compensatory and punitive damages plus costs of litigation and attorneys' fees.

COUNT 9  
PLAINTIFF V. ALL DEFENDANTS  
VIOLATION OF FEDERAL CIVIL RIGHTS

41. All other paragraphs of this Complaint are incorporated into this count by reference thereto.

42. WHEREFORE, the PLAINTIFF demands judgment against these Defendants jointly and severally for monetary damages, plus costs of litigation and attorneys' fees.

RESPECTFULLY SUBMITTED,

The Law Offices of SPERO T. LAPPAS

By: 

SPERO T. LAPPAS, Esquire  
Pa. Supreme Ct. ID no. 25745  
205 State Street  
P.O. Box 808  
Harrisburg, PA 17108-0808  
(717) 238-4286  
ATTORNEY FOR THE PLAINTIFF

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**RANDY YORDY,**  
                    **Plaintiff**

**v.**

**SCOTT BROWN, PAUL EVANKO,**  
**BERON F. STEAGER, AND BARRY L.**  
**BRINSER, et al.,**  
                    **Defendants**

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**No. 1:01-CV-0206**

**(Judge Kane)**

**ANSWER**

Defendants, Scott Brown, Paul Evanko, Beron Steager and Barry Brinser,  
by their counsel, hereby submit this answer to the complaint.

**FIRST DEFENSE**

The numbered allegations are answered as follows:

1.     **ADMITTED.**

2.     **ADMITTED** in part; **DENIED** in part. **ADMITTED** that, at all  
material times, Scott Brown was an employee of the Pennsylvania State Police.  
The remainder of this numbered paragraph contains conclusions of law to which  
**NO RESPONSE** is required; to the extent they are deemed factual, they are  
**DENIED.**

3.     **ADMITTED** in part; **DENIED** in part. **ADMITTED** that, at all  
material times, Beron Steager was an employee of the Pennsylvania State Police.

The remainder of this numbered paragraph contains conclusions of law to which NO RESPONSE is required; to the extent they are deemed factual, they are DENIED.

4. ADMITTED in part; DENIED in part. ADMITTED that, at all material times, Barry Brinser was an employee of the Pennsylvania State Police. The remainder of this numbered paragraph contains conclusions of law to which NO RESPONSE is required; to the extent they are deemed factual, they are DENIED.

5. ADMITTED in part; DENIED in part. ADMITTED that, at all material times, Paul Evanko was an employee of the Pennsylvania State Police and held the position of Commissioner. The remainder of this numbered paragraph contains conclusions of law to which NO RESPONSE is required; to the extent they are deemed factual, they are DENIED.

6. This numbered paragraph contains conclusions of law to which NO RESPONSE is required; to the extent they are deemed factual, they are ADMITTED.

7. This numbered paragraph contains conclusions of law to which NO RESPONSE is required; to the extent they are deemed factual, they are DENIED.

8. This numbered paragraph contains conclusions of law to which NO RESPONSE is required; to the extent they are deemed factual, they are ADMITTED.

9. This numbered paragraph contains conclusions of law to which NO RESPONSE is required; to the extent they are deemed factual, they are DENIED.

10. This numbered paragraph contains conclusions of law to which NO RESPONSE is required; to the extent they are deemed factual, they are DENIED.

11. This numbered paragraph contains conclusions of law to which NO RESPONSE is required; to the extent they are deemed factual, they are DENIED.

12. This numbered paragraph contains conclusions of law to which NO RESPONSE is required; to the extent they are deemed factual, they are DENIED.

13. This numbered paragraph contains conclusions of law to which NO RESPONSE is required; to the extent they are deemed factual, they are DENIED.

14. ADMITTED.

15. ADMITTED in part; DENIED in part. DENIED that the reason for the traffic stop was "purported." The remainder of this numbered paragraph is ADMITTED.

16. DENIED.

17. DENIED.

- a. DENIED.
- b. DENIED.
- c. DENIED.
- d. DENIED.
- e. DENIED.
- f. DENIED.
- g. DENIED.
- h. DENIED.
- i. DENIED.
- j. DENIED.
- k. DENIED.
- l. DENIED.
- m. DENIED.
- n. DENIED.
- o. DENIED.
- p. DENIED.
- q. DENIED.
- r. DENIED.

18. ADMITTED in part; DENIED in part. ADMITTED that Brown discharged his firearm. The remainder of this numbered paragraph is DENIED.

19. ADMITTED in part; DENIED in part. ADMITTED that Steager and Brinser came to plaintiff's home. The remainder of this numbered paragraph is DENIED.

20. DENIED.

- a. DENIED.
- b. DENIED.
- c. DENIED.
- d. DENIED.
- e. DENIED.
- f. DENIED.
- g. DENIED.
- h. DENIED.
- i. DENIED.
- j. DENIED.
- k. DENIED.
- l. DENIED.
- m. DENIED.

n. DENIED.

o. DENIED.

p. DENIED.

q. DENIED.

r. DENIED.

21. DENIED.

22. DENIED.

23. DENIED.

a. DENIED.

b. DENIED.

c. DENIED.

d. DENIED.

24. This numbered paragraph contains conclusions of law to which NO RESPONSE is required; to the extent they are deemed factual, they are DENIED.

25. This numbered paragraph contains conclusions of law to which NO RESPONSE is required; to the extent they are deemed factual, they are DENIED.

26. This numbered paragraph contains conclusions of law to which NO RESPONSE is required; to the extent they are deemed factual, they are DENIED.



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39. This numbered paragraph contains conclusions of law to which NO RESPONSE is required; to the extent they are deemed factual, they are DENIED.

40. This numbered paragraph contains conclusions of law to which NO RESPONSE is required; to the extent they are deemed factual, they are DENIED.

41. This numbered paragraph contains conclusions of law to which NO RESPONSE is required; to the extent they are deemed factual, they are DENIED.

42. This numbered paragraph contains conclusions of law to which NO RESPONSE is required; to the extent they are deemed factual, they are DENIED.

### **SECOND DEFENSE**

The complaint fails to state a claim upon which relief may be granted.

**THIRD DEFENSE**

At no time did defendant, either individually or in concert with others, deprive or seek to deprive plaintiff of any rights, privileges or immunities secured to him by the Constitution or laws of the United States.

**FOURTH DEFENSE**

At all material times, defendant acted with a reasonable good faith belief in the lawfulness of his actions and is entitled to immunity therefor.

**FIFTH DEFENSE**

Any harm occurring to plaintiff, which harm is specifically denied, was the proximate result of actions or inactions of persons other than answering defendant.

**SIXTH DEFENSE**

Any harm occurring to plaintiff, which harm is specifically denied, was the proximate result of actions or inactions of plaintiff himself.

**SEVENTH DEFENSE**

The Court lacks subject matter jurisdiction.

**EIGHTH DEFENSE**

Plaintiff is estopped to litigate his claims against defendant.

**NINTH DEFENSE**

Defendant is immune from suit.

**TENTH DEFENSE**


The complaint is meritless, frivolous or vexatious warranting an award of attorney's fees against plaintiff.

Wherefore, judgment should be entered in favor of defendants, together with costs and attorney's fees.

Respectfully submitted,

**D. MICHAEL FISHER**  
Attorney General

By:



**GREGORY R. NEUHAUSER**  
Senior Deputy Attorney General

**SUSAN J. FORNEY**  
Chief Deputy Attorney General  
Chief, Litigation Section

**OFFICE OF ATTORNEY GENERAL**  
15th Floor, Strawberry Square  
Harrisburg, PA 17120  
717-787-8106

**DATE: October 5, 2001**

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11/1/2002

YORDY VS  
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1

1	IN THE UNITED STATES DISTRICT COURT	
2	FOR THE MIDDLE DISTRICT OF PENNSYLVANIA	
3		
4	RANDY YORDY,	:
5	PLAINTIFF	:
6		:
7	VS.	: NO. 1:01-CV-0206
8		:
9	SCOTT BROWN, INDIVIDUALLY AND IN	:
10	HIS OFFICIAL CAPACITY AS AN	: JUDGE KANE
11	EMPLOYEE AND AGENT OF THE	:
12	PENNSYLVANIA STATE POLICE,	:
13	DEFENDANT	:
14		:
15	PAUL EVANKO, INDIVIDUALLY AND IN	:
16	HIS OFFICIAL CAPACITY AS AN	:
17	EMPLOYEE AND AGENT OF THE	:
18	PENNSYLVANIA STATE POLICE,	:
19	DEFENDANT, ET ALII	:
20		
21		
22		
23		
24		
25		

DEPOSITION OF:	PAUL J. EVANKO
TAKEN BY:	PLAINTIFF
BEFORE:	LISA A. HANSELL, REPORTER NOTARY PUBLIC
DATE:	NOVEMBER 1, 2002, 10:00 A.M.
PLACE:	PENNSYLVANIA STATE POLICE 1800 ELMERTON AVENUE HARRISBURG, PENNSYLVANIA

DEFENDANT  
EXHIBIT  
D

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<p style="text-align: right;">2</p> <p>1 APPEARANCES:  2 SERRATELLI, SCHIFFMAN, BROWN &amp; CALHOON, P.C.  3 BY: SPERO T. LAPPAS, ESQUIRE  4 FOR - PLAINTIFF  5 OFFICE OF THE ATTORNEY GENERAL  6 BY: GREGORY NEUHAUSER, ESQUIRE  7 FOR - DEFENDANTS  8 PENNSYLVANIA STATE POLICE  9 OFFICE OF CHIEF COUNSEL  10 BY: THOMAS F. JAKUBIAK, ESQUIRE  11 FOR - DEFENDANTS  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>	<p style="text-align: right;">4</p> <p>1 PAUL J. EVANKO, called as a witness, being  2 sworn, testified as follows:  3  4 DIRECT EXAMINATION  5  6 BY MR. LAPPAS:  7 Q Commissioner Evanko, as you know, my name is  8 Spero Lappas, and I've asked you to be here today to give a  9 deposition in a case that was filed by my client, Randy  10 Yordy, against you, Scott Brown and certain other people in  11 connection with an incident that took place involving Scott  12 Brown and some of the other troopers of the Pennsylvania  13 State Police on February 4, 1999.  14 Obviously, I know that you've taken  15 depositions before, but just let me remind you not to begin  16 answering a question until I've completed it and to confirm  17 for you that if at any time during the course of the  18 deposition you want to consult with either of the attorneys  19 who are present here on your behalf you certainly may do so  20 simply by asking.  21 Now, for the purposes of this record, would  22 you tell us, please, how long you've been the Commissioner  23 of the Pennsylvania State Police?  24 A Since February of 1995.  25 Q And what are your duties as Commissioner of</p>
<p style="text-align: right;">3</p> <p>1 TABLE OF CONTENTS  2  3 WITNESS  4 FOR PLAINTIFF DIRECT CROSS  5 Paul J. Evanko 4  6  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>	<p style="text-align: right;">5</p> <p>1 the Pennsylvania State Police?  2 A I'm responsible for the overall administration  3 and command of the Department and the budget.  4 Q What responsibilities do you have with respect  5 to discipline of members of the Pennsylvania State Police?  6 A I designate those duties to be done by the  7 Deputy Commissioner of Operations through the Department  8 Disciplinary Officer.  9 Q Do you have any supervisory authority over  10 disciplinary matters?  11 A In so much as I can dismiss troopers and  12 impose significant discipline based upon the recommendation  13 of the disciplinary officer.  14 Q Is there one member that's designated  15 disciplinary officer?  16 A There is a disciplinary officer and an  17 assistant disciplinary officer.  18 Q Who is the disciplinary officer today, for  19 example?  20 A Captain Barry Titler, and the assistant is  21 Lieutenant Carl Harrison.  22 Q Do you know offhand how long Captain Titler  23 has been the disciplinary officer?  24 A A couple of years, but I don't know the  25 specific time.</p>

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<p style="text-align: right;">6</p> <p>1 Q Do you know who was the disciplinary officer  2 before he was?</p> <p>3 A I believe it was Captain Dave Points.</p> <p>4 Q Now, as you probably know, one of the issues  5 involved in this case is the disciplinary record of a  6 Trooper Scott Brown. I'm going to be showing you certain  7 exhibits during the course of the deposition, but in general  8 terms do you know anything about Trooper Brown's  9 disciplinary record?</p> <p>10 A No, I don't.</p> <p>11 Q Do you know what his current status is with  12 the Pennsylvania State Police?</p> <p>13 A No, I don't.</p> <p>14 Q As I was being escorted into the conference  15 room here, I noticed there was a posting out in the lobby of  16 this office that indicated he was currently on suspension  17 without pay. Do you know anything about that?</p> <p>18 A No, I don't.</p> <p>19 MR. LAPPAS: Off the record.  20 (Discussion held off the record.)</p> <p>21 BY MR. LAPPAS:</p> <p>22 Q Now, Commissioner Evanko, the packet of  23 materials that I've just handed you consists of a number of  24 exhibits, and although we're not going to discuss all of  25 them, we are going to discuss some of them, but there are</p>	<p style="text-align: right;">8</p> <p>1 Q I see. Turn, please, then to the next page,  2 which begins Exhibit 2. Exhibit 2 relates -- I'm sure your  3 counsel would confirm this -- to a disciplinary -- a  4 grievance filed by Scott Brown with respect to the  5 allegation that he had engaged in an unwelcome and  6 unnecessary touching of a civilian officer, who is  7 identified here as Christine Kosh. Were you ever made aware  8 of the fact that Trooper Brown had been found to have  9 engaged in the unwelcome and unnecessary touching of  10 Christine Kosh?</p> <p>11 A Not that I recall, no.</p> <p>12 Q And according to this opinion of the  13 arbitrator, Mr. Brown was given a one-day suspension. I  14 believe the actual infraction was conduct unbecoming but --  15 yes, conduct unbecoming and performance of duty. I take it  16 you were not ever made aware of this particular infraction?</p> <p>17 MR. NEUHAUSER: I'm going to object, Counsel.  18 I don't think the decision was a one-day suspension. The  19 last page says a written reprimand. So to the extent that  20 it's --</p> <p>21 MR. LAPPAS: Okay. Well, evidently --</p> <p>22 MR. NEUHAUSER: I object to the form.</p> <p>23 MR. LAPPAS: You're correct, the original  24 discipline imposed was a one-day suspension, and then by  25 virtue of this order it was reduced to a one-day reprimand.</p>
<p style="text-align: right;">7</p> <p>1 eleven of them in total. The first document is marked as  2 Exhibit 1, and it is a memorandum dated June 25, 1997. It's  3 a one-page memorandum that deals with Trooper Scott Brown.  4 Have you ever seen this document before?</p> <p>5 A No, sir.</p> <p>6 Q Would you take a moment and read it, please?</p> <p>7 A Yes, sir.</p> <p>8 Q Okay. Now, Paragraph 2 -- and, just for the  9 record, this is a memorandum from Captain Larry Williams,  10 who identifies himself as the disciplinary officer as of  11 June 25, 1997.</p> <p>12 Paragraph 2 reads that "A review of Trooper  13 Scott A. Brown's personnel record reveals repeated  14 violations of Department rules and regulations. These  15 recurrent infractions raise serious questions as to Trooper  16 Brown's willingness to conform to acceptable standards of  17 behavior as established by the Department." Were you ever  18 made aware of this opinion or this conclusion of Captain  19 Williams?</p> <p>20 A Not that I recall.</p> <p>21 Q Is this the sort of matter -- this sort of  22 opinion expressed by a disciplinary officer, would this  23 normally reach your attention?</p> <p>24 A It would depend what the discipline was  25 imposed for whatever the infraction was here.</p>	<p style="text-align: right;">9</p> <p>1 BY MR. LAPPAS:</p> <p>2 Q Would I be correct in stating that you were  3 not made aware of this particular infraction?</p> <p>4 A That is correct. I don't recall knowing about  5 that.</p> <p>6 Q Now, the next exhibit, which is Exhibit 3,  7 deals with a disciplinary action report indicating that on  8 August 2, 1997 Trooper Brown used foul language, yelled,  9 threatened and lost composure while interacting with the  10 family of a Brian Plasterer, and this is signed by Captain  11 Marcantino. Were you ever made aware of this particular  12 infraction?</p> <p>13 A No, sir, not that I recall.</p> <p>14 Q As a result of the information reported in  15 Exhibit 3, Trooper Brown apparently was cited for violations  16 of the requirement to have courtesy and also cited for  17 committing unbecoming conduct. Exhibit 3 has three pages to  18 it, and then it's followed by a memorandum from Trooper  19 Brown, which is marked as Exhibit 4. Would you look at that  20 memorandum, please? Take a moment. It's relatively short,  21 a page and a half. Take a moment, please, to review it.</p> <p>22 A I've read it. Let me read Paragraphs 5, 6  23 and 7.</p> <p>24 Q Certainly.</p> <p>25 A I've read it.</p>

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<p style="text-align: right;">10</p> <p>1 Q In Exhibit 4, Trooper Brown presents evidence 2 which he asks to be considered in mitigation of his penalty, 3 and he indicates, for example, at Paragraph 5 that at the 4 time of this threatening and abusive conduct -- I'm sorry -- 5 foul language, yelling, threatening, and loss of composure 6 he was being treated for strep throat by a licensed 7 physician. Would you, as the Commissioner of the State 8 Police, believe that a strep throat would be a factor to 9 mitigate the use of foul language, threatening, and yelling 10 at civilians?</p> <p>11 A No, sir.</p> <p>12 Q The next paragraph indicates -- again in 13 mitigation of the penalty or in explanation of his behavior, 14 I'm not sure which one -- that Trooper Brown indicates that 15 on the day that he engaged in this yelling, threatening, and 16 loss of composure it was humid and it was -- the temperature 17 was 85 degrees. Would you feel that was evidence in 18 mitigation of this kind of behavior?</p> <p>19 A No, sir.</p> <p>20 Q Now, I don't believe it's in these particular 21 documents, but the specific language that Trooper Brown used 22 is cited elsewhere in the record as being, I believe, that 23 he referred to these people as assholes. Trooper Brown 24 indicates in Paragraph 7 that he did so in order to, to use 25 his language, provide a positive influence on the juvenile.</p>	<p style="text-align: right;">12</p> <p>1 A No, sir.</p> <p>2 Q Well, then please take a moment and read 3 Exhibit 5 as to the typewritten pages.</p> <p>4 A I've read it.</p> <p>5 Q Now that you've read it, would it continue to 6 be your testimony that you're not familiar with this 7 incident until just today?</p> <p>8 A The only thing I'm familiar with is -- if this 9 is the one where there was a window rolled up on his arm and 10 he was drug, if that's the same incident, I was aware that 11 there was a trooper involved in something like this, but I 12 don't know if this is the same --</p> <p>13 Q It doesn't sound like the same incident to 14 me.</p> <p>15 A Then my answer is no, I don't recall ever 16 seeing this.</p> <p>17 Q Assuming that the facts of the underlying 18 incident are consistent with the facts as reported in this 19 memo by Lieutenant Grolemond, would you agree that Trooper 20 Brown committed a number of infractions of your misconduct 21 regulations?</p> <p>22 A Yes, I would.</p> <p>23 Q Now, the next exhibit, Exhibit 6, deals with 24 the investigation of the Lemoyne Borough incident, the 25 investigation of the incident described in Exhibit 5, and</p>
<p style="text-align: right;">11</p> <p>1 Would you agree that that's a good way to provide a positive 2 influence on a juvenile?</p> <p>3 MR. NEUHAUSER: I'm going to object in the 4 sense that the question has assumptions in it that this 5 witness may not be prepared to accept.</p> <p>6 BY MR. LAPPAS:</p> <p>7 Q For the purposes of my question, assume that 8 during the course of the behavior that's relevant to 9 Exhibits 3 and 4 Trooper Brown used the word asshole. Would 10 you think that was an appropriate way to provide a positive 11 influence?</p> <p>12 MR. NEUHAUSER: With those assumptions, you 13 can answer.</p> <p>14 A With the assumptions that he has done so with 15 a juvenile involved in what was it, the theft of a bicycle?</p> <p>16 BY MR. LAPPAS:</p> <p>17 Q Right.</p> <p>18 A My answer would be no.</p> <p>19 Q Now, the next exhibit, which is Exhibit 5, 20 deals with an incident that's alleged to have taken place on 21 April 10, 1996 in the Borough of Lemoyne in Cumberland 22 County. This, again, involves Trooper Brown, and the 23 memorandum is prepared by Lieutenant Grolemond. I hope I'm 24 pronouncing his name correctly. Are you aware of this 25 incident, Commissioner Evanko?</p>	<p style="text-align: right;">13</p> <p>1 I'm going to ask you to take a moment to read Exhibit 6. It 2 consists only of this one page.</p> <p>3 A I've read it.</p> <p>4 Q Now, the second to the last paragraph in 5 Exhibit 6 -- I'm sorry. The second full paragraph in the 6 section called details indicates towards the end of that 7 paragraph that during a disciplinary meeting -- actually, I 8 think it's described as a pre-disciplinary conference -- 9 between Trooper Brown and Lieutenant Grolemond Trooper Brown 10 made statements to Lieutenant Grolemond which he 11 acknowledged to be, in the Lieutenant's words, untruthful 12 and a lie, and then the lieutenant summarizes this by saying 13 Brown stated he lied to avoid getting into trouble. Would 14 it be considered in your understanding a disciplinary 15 infraction for a trooper to lie to a matter -- lie to a 16 superior officer concerning a matter under investigation?</p> <p>17 A Yes, sir.</p> <p>18 Q The second to the last paragraph of this 19 exhibit states that -- and I'm not reading it in full, but 20 it states that Trooper Brown's admission of a deliberate and 21 intentional lie to the investigating officer casts doubt on 22 Brown's credibility on all relevant parts of this 23 investigation in which he is contradicted by evidence or 24 other testimony. Would you agree that that is an 25 appropriate conclusion for Trooper Grolemond to have reached</p>



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<p style="text-align: right;">14</p> <p>1 under these circumstances?</p> <p>2 <b>A I think it is.</b></p> <p>3 <b>MR. NEUHAUSER:</b> Again, with the continuing</p> <p>4 objection that the question has assumptions and all the</p> <p>5 Commissioner's been aware of is what you presented to him.</p> <p>6 <b>MR. LAPPAS:</b> Right. That assumes, of course,</p> <p>7 that the facts concerning this pre-disciplinary conference</p> <p>8 are consistent with the way they were reported by Lieutenant</p> <p>9 Grolemund in Exhibit 6.</p> <p>10 Now, the next exhibit, which is Exhibit 7,</p> <p>11 consists of a cover page and then two typewritten pages, and</p> <p>12 I'm going to ask that you review this exhibit, please. Take</p> <p>13 as much time as you want.</p> <p>14 While you're doing that, let me just state for</p> <p>15 the record that the exhibits that I'm discussing with the</p> <p>16 witness are identical to the exhibits that were attached to</p> <p>17 the plaintiff's brief in opposition to the defendant's</p> <p>18 motion in limine which was filed with the court on October</p> <p>19 24th of 2002, and because of that I don't propose to attach</p> <p>20 them to the transcript.</p> <p>21 <b>MR. NEUHAUSER:</b> Okay. Let's note for the</p> <p>22 record that the witness has left the room in order to answer</p> <p>23 a telephone call.</p> <p>24 (Recess.)</p> <p>25 <b>A I've read it.</b></p>	<p style="text-align: right;">16</p> <p>1 psychological staff or any treatment or doesn't it matter to</p> <p>2 you?</p> <p>3 <b>MR. LAPPAS:</b> Let's ask the question with</p> <p>4 respect to any kind of psychological or mental health</p> <p>5 treatment.</p> <p>6 <b>BY MR. LAPPAS:</b></p> <p>7 <b>Q</b> If a trooper had indicated to the Pennsylvania</p> <p>8 State Police that he was receiving mental health treatment</p> <p>9 for an acknowledged psychological or mental health problem,</p> <p>10 would the Department have the authority to request that</p> <p>11 those treatment records be opened and be delivered to</p> <p>12 departmental personnel for review?</p> <p>13 <b>A I'd have to check with the Deputy of</b></p> <p>14 <b>Administration to see if we have authority to do that.</b></p> <p>15 <b>Q</b> And would your answers be the same that you</p> <p>16 don't have any specific recollection of having done that</p> <p>17 either personally or through your subordinates on any other</p> <p>18 occasions?</p> <p>19 <b>A That is correct.</b></p> <p>20 <b>Q</b> The next document, which is marked as</p> <p>21 Exhibit 8, is an opinion and award of an arbitrator, who's</p> <p>22 identified as Lynne M. Mountz. I'm not going to ask you to</p> <p>23 read this entire document, although if you'd like to you</p> <p>24 certainly may.</p> <p>25 I will summarize it by telling you that this</p>
<p style="text-align: right;">15</p> <p>1 <b>BY MR. LAPPAS:</b></p> <p>2 <b>Q</b> Now, towards the end of this exhibit, the</p> <p>3 bottom of the second page of the exhibit, Trooper Brown</p> <p>4 indicates that he has taken proactive steps to correct his</p> <p>5 shortcomings. He states that he's currently receiving</p> <p>6 prescribed medication for attention deficit hyperactivity</p> <p>7 disorder, and he is seeing Department Psychologist Larry</p> <p>8 Walker. He has come to terms with his family situation.</p> <p>9 If a trooper under your command is receiving</p> <p>10 psychological treatment, do you have the right to request</p> <p>11 that his treatment records be opened to his superior</p> <p>12 officers in the Pennsylvania State Police?</p> <p>13 <b>A I'd have to --</b></p> <p>14 <b>Q</b> Do you understand the question?</p> <p>15 <b>A I understand, and I'd have to ask the Deputy</b></p> <p>16 <b>of Administration because I'm not sure.</b></p> <p>17 <b>Q</b> Okay. Do you remember any situation in which</p> <p>18 you have asked for treatment records for a trooper who</p> <p>19 acknowledged that he was having psychological problems?</p> <p>20 <b>A I can't remember that I have asked that, no.</b></p> <p>21 <b>Q</b> Are you aware of any cases where other State</p> <p>22 Police officials have asked for that information?</p> <p>23 <b>A I'm not personally aware of that, no.</b></p> <p>24 <b>MR. NEUHAUSER:</b> Counsel, just for</p> <p>25 clarification, was the question limited to department</p>	<p style="text-align: right;">17</p> <p>1 deals with a grievance which Trooper Brown filed after</p> <p>2 receiving a discipline concerning the Garcia matter, which</p> <p>3 is the incident that was described in exhibits -- I guess</p> <p>4 they were 6 and 7 -- 5, 6 and 7. Again, I will tell you,</p> <p>5 and ask you to assume -- and your counsel can correct me if</p> <p>6 I'm wrong -- that the Department imposed a discipline on</p> <p>7 Trooper Brown. He grieved it alleging, among other things,</p> <p>8 that the discipline had not been filed in a timely fashion</p> <p>9 and that he asked that it be rescinded based upon what is</p> <p>10 described here as a violation of the Statute of Limitations.</p> <p>11 Now, I take it you're familiar with the fact</p> <p>12 that the Collective Bargaining Agreement and perhaps other</p> <p>13 regulations of the State Police require that disciplinary</p> <p>14 charges be filed within a certain period of time; is that</p> <p>15 accurate?</p> <p>16 <b>A Yes, sir.</b></p> <p>17 <b>Q</b> And it's my understanding from reading this</p> <p>18 document -- and tell me if this is consistent with your</p> <p>19 understanding -- that if the charges are not filed within</p> <p>20 the appropriate time the member who is affected by those</p> <p>21 charges can ask that they be dismissed or rescinded?</p> <p>22 <b>A He can propose that argument to the</b></p> <p>23 <b>arbitrator.</b></p> <p>24 <b>Q</b> Right. He has a right to file a grievance,</p> <p>25 and then it goes to arbitration, and he can seek dismissal</p>

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<p style="text-align: right;">18</p> <p>1 of the charges on the basis that they were too late?</p> <p>2 <b>A I think that is correct, yes, sir.</b></p> <p>3 <b>Q And then it's up to the arbitrator to make the</b></p> <p>4 <b>final decision under those circumstances?</b></p> <p>5 <b>A Yes, it is.</b></p> <p>6 <b>Q Now, is reassignment from one job duty within</b></p> <p>7 <b>the Department to another job duty a disciplinary matter</b></p> <p>8 <b>that a trooper can grieve?</b></p> <p>9 <b>A I don't think that's grievable.</b></p> <p>10 <b>Q So, hypothetically, when Trooper Brown was</b></p> <p>11 <b>found to have violated departmental regulations in</b></p> <p>12 <b>connection with the Garcia matter and his disciplinary</b></p> <p>13 <b>suspension was rescinded by Arbitrator Mountz, could he have</b></p> <p>14 <b>been reassigned from patrol duty, for example, to desk duty?</b></p> <p>15 <b>MR. NEUHAUSER: For any reason or based on the</b></p> <p>16 <b>arbitration decision?</b></p> <p>17 <b>MR. LAPPAS: For any reason.</b></p> <p>18 <b>MR. NEUHAUSER: Whether it's related to the</b></p> <p>19 <b>arbitration or not?</b></p> <p>20 <b>MR. LAPPAS: Right.</b></p> <p>21 <b>BY MR. LAPPAS:</b></p> <p>22 <b>Q My question is basically this: does the</b></p> <p>23 <b>Commissioner or anyone acting subordinate to the</b></p> <p>24 <b>Commissioner have the authority to reassign a trooper from</b></p> <p>25 <b>one job duty to another without that transfer or</b></p>	<p style="text-align: right;">20</p> <p>1 deliberate lie on a matter during an investigation, and now</p> <p>2 we have the Garcia incident which involves drawing a gun and</p> <p>3 engaging in other kinds of conduct which led to a ten-day</p> <p>4 suspension. That ten-day suspension was then rescinded on a</p> <p>5 technicality of the Statute of Limitations violation.</p> <p>6 Now, I know this is a long question, and those</p> <p>7 are the introductory remarks. Once this happens and the</p> <p>8 discipline is rescinded, was there any reason that you're</p> <p>9 aware of that Trooper Brown couldn't have been moved from</p> <p>10 patrol duties, where he would come into day-to-day contact</p> <p>11 with the general public, to say desk duty or something that</p> <p>12 would be slightly less, to use my term, dangerous?</p> <p>13 <b>MR. NEUHAUSER: For the record, I'm going to</b></p> <p>14 <b>object on the foundation. I'm not going to instruct him not</b></p> <p>15 <b>to answer, but, just for the record, assuming that all the</b></p> <p>16 <b>facts, the chronology and everything that you just said in</b></p> <p>17 <b>your prefatory statement is correct, I'll allow him to</b></p> <p>18 <b>answer, but we're not conceding that that is accurate.</b></p> <p>19 <b>MR. LAPPAS: I acknowledge that.</b></p> <p>20 <b>MR. NEUHAUSER: Do you understand?</b></p> <p>21 <b>A And the question is could he have --</b></p> <p>22 <b>BY MR. LAPPAS:</b></p> <p>23 <b>Q In light of all the things we've discussed,</b></p> <p>24 <b>could he have been reassigned from patrol duty to something</b></p> <p>25 <b>that wouldn't put him in such close contact with the public,</b></p>
<p style="text-align: right;">19</p> <p>1 reassignment being a disciplinary, grievable matter?</p> <p>2 <b>A Consistent with any provisions that might be</b></p> <p>3 <b>contrary to the Collective Bargaining Agreement, I think the</b></p> <p>4 <b>troop commander does have that authority.</b></p> <p>5 <b>Q Okay. Do you know what kind of provisions</b></p> <p>6 <b>would make such a reassignment contrary to the Collective</b></p> <p>7 <b>Bargaining Agreement?</b></p> <p>8 <b>A I think there's some provisions in there that</b></p> <p>9 <b>have to do with seniority in positions and the need to take</b></p> <p>10 <b>the less senior person in some circumstances if you're going</b></p> <p>11 <b>to change duty positions. I'd have to sit down with the</b></p> <p>12 <b>Deputy of Administration and get that clarified.</b></p> <p>13 <b>Q I understand. Well, let's use the Trooper</b></p> <p>14 <b>Brown situation as the focus of our discussion. As of April</b></p> <p>15 <b>of 1998 when Arbitrator Mountz rescinded his discipline, he</b></p> <p>16 <b>had been involved in the matter with a juvenile, a bicycle</b></p> <p>17 <b>theft case in which he was disciplined for being threatening</b></p> <p>18 <b>and abusive, using foul language, etcetera. He had received</b></p> <p>19 <b>a previous discipline for unwanted and unwelcome, I think is</b></p> <p>20 <b>the term, inappropriate touching of Ms. Kosh.</b></p> <p>21 <b>Captain Williams had filed a memorandum</b></p> <p>22 <b>indicating that Trooper Brown's recurrent infractions raised</b></p> <p>23 <b>serious questions as to his willingness to conform to</b></p> <p>24 <b>acceptable standards of behavior. He had been found by I</b></p> <p>25 <b>think it was Lieutenant Grolemond to have engaged in a</b></p>	<p style="text-align: right;">21</p> <p>1 desk duty or dispatch or -- I don't know what else is</p> <p>2 available or what would have been available. Could he have</p> <p>3 been transferred to something else?</p> <p>4 <b>MR. NEUHAUSER: Assuming no other violations</b></p> <p>5 <b>of the Collective Bargaining Agreement, which he's already</b></p> <p>6 <b>testified to, and -- with all those assumptions, could he be</b></p> <p>7 <b>transferred?</b></p> <p>8 <b>MR. LAPPAS: Correct.</b></p> <p>9 <b>A I'd have to really confer with the Deputy of</b></p> <p>10 <b>Administration to make sure of my answer.</b></p> <p>11 <b>BY MR. LAPPAS:</b></p> <p>12 <b>Q Who would that be that you would confer with?</b></p> <p>13 <b>A Lieutenant Colonel Hawthorne Conley.</b></p> <p>14 <b>Q I understand that you need to consult with</b></p> <p>15 <b>Lieutenant Colonel Conley, but as a general proposition</b></p> <p>16 <b>would it be true that troopers are assigned at the</b></p> <p>17 <b>discretion of the administration and can be reassigned to</b></p> <p>18 <b>positions where their particular qualifications best suit</b></p> <p>19 <b>them?</b></p> <p>20 <b>A Consistent, again, with the articles of the</b></p> <p>21 <b>contract, the Collective Bargaining Agreement.</b></p> <p>22 <b>Q Okay. Now, the next document in this packet</b></p> <p>23 <b>is Exhibit 9. Now, Exhibit 9 is the deposition of Trooper</b></p> <p>24 <b>Brown in this particular case, and I'm confident that you</b></p> <p>25 <b>have not -- I do not expect that you would have seen this</b></p>

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<p style="text-align: right;">22</p> <p>1 before today. Is it accurate that you've not seen it before</p> <p>2 today?</p> <p>3 <b>A That is accurate.</b></p> <p>4 <b>Q</b> Now, I've told you that the arbitrator's</p> <p>5 decision concerning the suspension that is dealt with in</p> <p>6 Exhibit 8, Arbitrator Mountz's decision in April of 1998,</p> <p>7 reversed or rescinded Trooper Brown's ten-day suspension</p> <p>8 because of a Statute of Limitations problem.</p> <p>9 Now, in Trooper Brown's deposition,</p> <p>10 specifically at Pages 18 and 19, I discussed with him the</p> <p>11 reasons for Arbitrator Mountz's decision, and at Page 18,</p> <p>12 which is in the bottom left-hand corner of that sheet,</p> <p>13 starting at Line 16, he indicates that that suspension was</p> <p>14 completely revoked, taken out of my file, and dismissed. I</p> <p>15 asked him on what grounds, and he states that the grounds</p> <p>16 were that it wasn't justified. Then we continued to discuss</p> <p>17 this onto Page 19, and he states beginning at Line 1 he,</p> <p>18 referring to the arbitrator, felt that I -- in his</p> <p>19 statements, his findings, he found that I not only complied</p> <p>20 with Pennsylvania State Police regulations, I also complied</p> <p>21 with the current law in the Commonwealth of Pennsylvania and</p> <p>22 was justified in doing what I did.</p> <p>23 Now, let's assume for the purposes of this</p> <p>24 question that the documents that you have in front of you</p> <p>25 are accurate and that the arbitrator based her decision on a</p>	<p style="text-align: right;">24</p> <p>1 Cadieux, and it's addressed to Michael S. Marrone, M.D.,</p> <p>2 State Police Medical Officer at this address, 1800 Elmerton</p> <p>3 Avenue, Harrisburg, Pennsylvania. And, for the record, this</p> <p>4 is Exhibit 10, and the date of this exhibit is November 17,</p> <p>5 2000.</p> <p>6 <b>MR. NEUHAUSER:</b> Just for the record, we'll</p> <p>7 note that this was after the incident about which plaintiff</p> <p>8 complains in this case.</p> <p>9 <b>MR. LAPPAS:</b> Right. The date of this document</p> <p>10 is some year and a few months after the February '99</p> <p>11 incident.</p> <p>12 <b>BY MR. LAPPAS:</b></p> <p>13 <b>Q</b> First of all, do you know anything about the</p> <p>14 circumstances by which Trooper Brown was asked to be</p> <p>15 evaluated by Dr. Cadieux?</p> <p>16 <b>A</b> No, sir.</p> <p>17 <b>Q</b> Do you know Michael S. Marrone, M.D.?</p> <p>18 <b>A</b> Yes, I do.</p> <p>19 <b>Q</b> And he's identified here as State Police</p> <p>20 Medical Officer. Is that, in fact, his position?</p> <p>21 <b>A</b> Yes, sir.</p> <p>22 <b>Q</b> Is he a full-time employee of the Pennsylvania</p> <p>23 State Police, or is he a consultant? What exactly is his</p> <p>24 affiliation with the Department?</p> <p>25 <b>A</b> I think he works part time for the Department.</p>
<p style="text-align: right;">23</p> <p>1 Statute of Limitations timeliness problem and that she never</p> <p>2 at all found that Trooper Brown had complied with State</p> <p>3 Police regulations, that he had complied with the current</p> <p>4 law of the Commonwealth, and further she never found that he</p> <p>5 was justified in doing what he did. Let's further assume</p> <p>6 for the purpose of my question that Trooper Brown had been</p> <p>7 made aware of the reasons for the arbitrator's decision.</p> <p>8 Would it be considered a violation of State</p> <p>9 Police policy for him to have given -- not policy, but the</p> <p>10 regulations which govern the conduct of troopers -- for him</p> <p>11 to have given false testimony while under oath at his</p> <p>12 deposition?</p> <p>13 <b>A</b> I guess it depends what his understanding of</p> <p>14 the arbitrator's decision was based on.</p> <p>15 <b>Q</b> Right. Okay. I understand that. If it could</p> <p>16 be determined that he understood that the decision was a</p> <p>17 Statute of Limitations decision, that she had specifically</p> <p>18 refused to deal with the merits of the case, and then he had</p> <p>19 testified that she found that everything was fine and he was</p> <p>20 cleared, would that kind of false testimony be a violation</p> <p>21 of State Police regulations?</p> <p>22 <b>A</b> If that's what was his understanding, yes,</p> <p>23 sir.</p> <p>24 <b>Q</b> Okay. Now, the next document, which is</p> <p>25 Exhibit 10, is a multiple page memorandum from a Dr. Roger</p>	<p style="text-align: right;">25</p> <p>1 <b>Q</b> Now, I understand that you've testified that</p> <p>2 you're not familiar with the circumstances by which Corporal</p> <p>3 Brown was asked to see Dr. Cadieux, but are you familiar</p> <p>4 with whether or not the State Police can require members to</p> <p>5 submit to psychiatric evaluations?</p> <p>6 <b>A</b> I know that we have the authority to order an</p> <p>7 independent psychiatric evaluation.</p> <p>8 <b>Q</b> And has that authority been in place as long</p> <p>9 as you've been the Commissioner?</p> <p>10 <b>A</b> I believe that it has been, yes, sir.</p> <p>11 <b>Q</b> Generally, who within the Department has that</p> <p>12 authority to require an independent psychiatric evaluation?</p> <p>13 <b>A</b> I believe the Deputy Commissioner of</p> <p>14 Administration has that authority.</p> <p>15 <b>Q</b> And could you also order it by your own</p> <p>16 authority?</p> <p>17 <b>A</b> I could, if it got to my level.</p> <p>18 <b>Q</b> And does the Department have the authority to</p> <p>19 either suspend or reassign or otherwise take a member out of</p> <p>20 service based upon evidence that is revealed during the</p> <p>21 independent psychiatric examination?</p> <p>22 <b>A</b> I would think that we would.</p> <p>23 <b>Q</b> Okay. Now, from your own experience as -- and</p> <p>24 I don't mean as the Commissioner -- an officer of the</p> <p>25 Pennsylvania State Police -- and I understand you've held a</p>

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<p style="text-align: right;">26</p> <p>1 great many positions within the Department -- what would be</p> <p>2 the criteria that you feel would be important in deciding</p> <p>3 whether to order an independent psychiatric examination of a</p> <p>4 trooper?</p> <p>5 <b>A There are provisions in the policy that spell</b></p> <p>6 <b>out what they are, and without looking at them I'm going to</b></p> <p>7 <b>be speculating.</b></p> <p>8 <b>Q Are you telling me that there are certain</b></p> <p>9 <b>regulations that provide for the criteria for having that</b></p> <p>10 <b>sort of evaluation done?</b></p> <p>11 <b>A I think they are either in policy or practice.</b></p> <p>12 <b>Q Are they written down somewhere?</b></p> <p>13 <b>A I think they are.</b></p> <p>14 <b>MR. LAPPAS:</b> Can we ask to have a copy of</p> <p>15 those regulations or whatever the proper terminology would</p> <p>16 be provided to us?</p> <p>17 <b>MR. NEUHAUSER:</b> Sure. We'll look for it.</p> <p>18 <b>MR. LAPPAS:</b> All right.</p> <p>19 <b>BY MR. LAPPAS:</b></p> <p>20 <b>Q Now, Commissioner Evanko, when we began the</b></p> <p>21 <b>deposition, you indicated that, if I understood you</b></p> <p>22 <b>correctly, you have ultimate disciplinary authority within</b></p> <p>23 <b>the Department, but you have designated that authority to</b></p> <p>24 <b>some of your subordinate officers. Would that be accurate?</b></p> <p>25 <b>A That is accurate.</b></p>	<p style="text-align: right;">28</p> <p>1 <b>court-martial proceeding.</b></p> <p>2 <b>Q You have ultimate court-martial authority?</b></p> <p>3 <b>A Yes, I do.</b></p> <p>4 <b>Q If I remember anything about the court-martial</b></p> <p>5 <b>procedure, there's a panel of officers that conducts the</b></p> <p>6 <b>court-martial hearing; is that correct?</b></p> <p>7 <b>A I've never had to do one, but my understanding</b></p> <p>8 <b>is that there's a panel of officers that I preside over.</b></p> <p>9 <b>Q You, yourself, preside over the actual</b></p> <p>10 <b>hearing?</b></p> <p>11 <b>A I think that's the case, but I've never had to</b></p> <p>12 <b>do one.</b></p> <p>13 <b>Q I see. The court-martial regulations, I</b></p> <p>14 <b>guess, are spelled out somewhere in a regulatory handbook or</b></p> <p>15 <b>someplace?</b></p> <p>16 <b>A They're spelled out somewhere.</b></p> <p>17 <b>Q Okay. Just to summarize, we've discussed a</b></p> <p>18 <b>number of disciplinary problems that Trooper Brown had</b></p> <p>19 <b>experienced from I think the first date we talked about was</b></p> <p>20 <b>sometime in 1996 up throughout the course of the next few</b></p> <p>21 <b>years. If I understand your testimony correctly, none of</b></p> <p>22 <b>these matters had ever been brought to your attention before</b></p> <p>23 <b>today. Am I correct in that?</b></p> <p>24 <b>A Did we discuss the one where he had a window</b></p> <p>25 <b>rolled up on his arm and was drug?</b></p>
<p style="text-align: right;">27</p> <p>1 <b>Q And as you have made this designation, have</b></p> <p>2 <b>you imposed any requirements on the subordinate officers</b></p> <p>3 <b>that certain kinds of cases be brought to your attention?</b></p> <p>4 <b>A There are provisions, and, again, I would have</b></p> <p>5 <b>to sit down with the Deputy of Administration to specify</b></p> <p>6 <b>exactly which of those come to me for final penalty and</b></p> <p>7 <b>disposition. For example, dismissals would come to me.</b></p> <p>8 <b>Q Instead of concentrating on the ultimate</b></p> <p>9 <b>disposition of a case, my question was I guess directed more</b></p> <p>10 <b>towards the kind of misconduct that might or might not be</b></p> <p>11 <b>committed by a member. Are there certain kinds of</b></p> <p>12 <b>misconduct cases that you require that you be made aware</b></p> <p>13 <b>of? If a trooper shoots somebody are you supposed to be</b></p> <p>14 <b>made aware of that, or commits a felony?</b></p> <p>15 <b>A Yes. I'm to be made aware of significant</b></p> <p>16 <b>violations of Department regulations, but I don't -- in</b></p> <p>17 <b>those cases where I am made aware of those, I get a synopsis</b></p> <p>18 <b>of where it occurred, what trooper, what bureau, but without</b></p> <p>19 <b>a name.</b></p> <p>20 <b>Q Without a name?</b></p> <p>21 <b>A Without a name.</b></p> <p>22 <b>Q Why is that?</b></p> <p>23 <b>A Because if the individual chooses a</b></p> <p>24 <b>court-martial, I'm not supposed to have background</b></p> <p>25 <b>information that might prejudice my decision in a</b></p>	<p style="text-align: right;">29</p> <p>1 <b>Q I do not believe that is one of the ones that</b></p> <p>2 <b>we've talked about today.</b></p> <p>3 <b>A That's the only case that I would have been</b></p> <p>4 <b>aware of. I don't recall any of these other ones.</b></p> <p>5 <b>Q The one that you remember, having the window</b></p> <p>6 <b>rolled up, was he disciplined in any fashion on that</b></p> <p>7 <b>occasion?</b></p> <p>8 <b>A I don't know.</b></p> <p>9 <b>Q I know that you have a large department, but</b></p> <p>10 <b>had you ever been made aware of Trooper Brown for any reason</b></p> <p>11 <b>whatsoever?</b></p> <p>12 <b>A Not that I recall, no.</b></p> <p>13 <b>Q Now, during the course of the deposition</b></p> <p>14 <b>today, we've referenced the fact that there are regulations</b></p> <p>15 <b>in place that govern the operation of the State Police, and</b></p> <p>16 <b>I think we discussed disciplinary type regulations,</b></p> <p>17 <b>regulations that deal with other matters. As the Chief</b></p> <p>18 <b>Executive Officer of the Pennsylvania State Police, do you</b></p> <p>19 <b>have ultimate responsibility for producing those</b></p> <p>20 <b>regulations?</b></p> <p>21 <b>MR. NEUHAUSER:</b> Tell me what you mean by</p> <p>22 <b>producing them.</b></p> <p>23 <b>BY MR. LAPPAS:</b></p> <p>24 <b>Q Well, I don't expect that you write them all</b></p> <p>25 <b>yourself, but you institute the regulations -- the</b></p>

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1 regulations of the Department are in place by your  
 2 authority; is that accurate?  
 3 **A** By virtue of me signing off on the final draft  
 4 of the regulation, yes, sir.  
 5 **Q** And if you perceive there to be a need for  
 6 changes in departmental policy or regulations, do you have  
 7 the authority to implement such changes?  
 8 **A** Yes, I do.  
 9 **MR. LAPPAS:** Those are the only questions I  
 10 have. I'm going to request that -- and this is a request  
 11 made more to your counsel than to you, Commissioner. If you  
 12 could please find out the answers to those questions that  
 13 you said you needed to confer with Lieutenant Colonel Conley  
 14 about and then make your counsel aware of them, and if you  
 15 could just send me a letter or a memo if you wouldn't mind  
 16 doing that. We don't need to reconvene the deposition for  
 17 that. Would you be in agreement with that?  
 18 **MR. NEUHAUSER:** And specifically they were  
 19 what, or should we rely on the transcript?  
 20 **MR. LAPPAS:** I'm sorry?  
 21 **MR. JAKUBIAK:** Can we get the transcript  
 22 before?  
 23 **MR. LAPPAS:** Absolutely. The one that occurs  
 24 to me deals with reassignment and the type of cases that the  
 25 Commissioner would be made aware of disciplinary-wise.

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1 **MR. NEUHAUSER:** Okay.  
 2 **MR. LAPPAS:** There may be others, but those  
 3 are the ones that occur to me right now.  
 4 (The deposition was concluded at 10:55 a.m.)  
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1 STATE OF PENNSYLVANIA :  
 : ss  
 2 COUNTY OF YORK :  
 3  
 4 I, Lisa A. Hansell, a Reporter Notary-Public,  
 5 authorized to administer oaths within and for the  
 6 Commonwealth of Pennsylvania and take depositions in the  
 7 trial of causes, do hereby certify that the foregoing is the  
 8 testimony of PAUL J. EVANKO.  
 9 I further certify that before the taking of  
 10 said deposition, the witness was duly sworn; that the  
 11 questions and answers were taken down stenographically by  
 12 the said reporter, Lisa A. Hansell, a Reporter  
 13 Notary-Public, approved and agreed to, and afterwards  
 14 reduced to typewriting under the direction of the said  
 15 Reporter.  
 16 I further certify that the proceedings and  
 17 evidence contained fully and accurately in the notes by me  
 18 on the within deposition, and that this copy is a correct  
 19 transcript of the same.  
 20 In testimony whereof, I have hereunto  
 21 subscribed my hand this 21st day of November, 2002.  
 22  
 23  
 24 Lisa A. Hansell, Reporter  
 Notary Public  
 25 My commission expires:  
 May 20, 2004



**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**RANDY YORDY,**  
**Plaintiff**

**V.**

**SCOTT BROWN, PAUL EVANKO,  
BERON F. STEAGER, AND BARRY L.  
BRINSER, et al.,  
Defendants**

:  
 :  
 : **No. 1:01-CV-0206**  
 :  
 : **(Judge Kane)**

## CERTIFICATE OF SERVICE

I, **GREGORY R. NEUHAUSER**, Senior Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, hereby certify that on **November 27, 2002**, I caused to be served a true and correct copy of the foregoing document **Exhibits in Support of Defendant Evanko's Motion for Summary Judgment** by depositing it in the United States mail, first-class postage prepaid to the following:

Spero T. Lappas, Esquire  
Serratelli, Schiffman, Brown & Calhoon, P.C.  
2080 Linglestown Road, Suite 201  
Harrisburg, PA 17110

**GREGORY R. NEUHAUSER**  
Senior Deputy Attorney General